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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/776,627

02/09/2004

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06/01/2007

EXAMINER

LEE, PING

ART UNIT

PAPER NUMBER

2615

MAIL DATE

DELIVERY MODE

06/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/776,627

Applicant(s)

NASTASIC, ZORKI

Examiner

Ping Lee

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. Form PTO-1449 could be used for this purpose.

### ***Claim Objections***

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1-5 and 1 on p. 8 been renumbered as claims 6-11 respectively. Therefore, claims 1-11 are being examined. For examination purpose, the dependent claims 7-10 listed on p. 8 have been modified to depend on claims 6, 6, 8 and 9 respectively.

3. Claims 2, 4, 5 7, 8, and 10 objected to because of the following informalities: the word " its' " is not a correct term in English. Also, the word " it's" is not in the right

grammar in combination with the phrase "components". Appropriate correction is required. ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "or whatever desired shape" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or whatever desired shape"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claim 1, the phrase "or any other hard surfaces" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "any other hard surfaces"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claim 1, line 7, the phrase "or their components" is vague because it is unclear which elements are being referred to.

Regarding claim 6, the phrase "or whatever desired shape" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or whatever desired shape"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claim 6, the phrase "or any moldable hardening surfaces" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "any moldable hardening surfaces"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claim 6, line 6, the phrase "or it's components" is vague because it is unclear which elements are being referred to and the phrase "it's components" is not in correct grammar.

Regarding claim 11, the phrase "or whatever desired shape" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or whatever desired shape"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Regarding claim 11, the phrase "or any moldable hardening surfaces" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "any moldable hardening surfaces"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-3, 6-9 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Tomoda (US007015391B2).

Regarding claim 1, 2, 6-8, and 11 Tomoda discloses a portable stage/platform being square and large enough for one person to perform comfortably upon, being 2 feet square or larger (as shown in Figs. 6A and 6B, one foot is approximately half the stage) and  $\frac{1}{2}$  in high or higher (based on the scale of the foot as shown in Fig. 6B),  $\frac{1}{4}$  inch thick or thicker (as shown in Fig. 6B, the thickness between 58 and 52) made of hard surfaced material comprising a sound pick-up (56), mounted underneath the stage to amplify the movement of the feet.

Regarding claims 3 and 9, Tomoda shows the sloped sides (on the side of 54).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tomoda.

Regarding claim 10, Tomoda shows a cable coupled to an amplifier, but fails to show the plug as either standard XLR connectors or  $\frac{1}{4}$  plug. Examiner takes Official Notice that this feature is notoriously well known in the art. Thus, it would have been obvious to one of ordinary skill in the art to modify Tomoda by using either standard

XLR connectors or ¼ plug because using any of these connector does not produce any unexpected result.

10. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomoda in view of Niemi et al (hereafter Niemi) (US006201876B1).

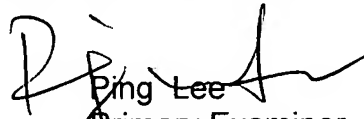
Regarding claims 4 and 5, Niemi fails to show the detail of the microphone housing. However, one skilled in the art would have expected that the microphone, a sensitive sensor, should be protected in a housing. Niemi teaches a protective housing to enclose the microphone. Thus, it would have been obvious to one of ordinary skill in the art to modify Tomoda by replacing the microphone with the microphone as taught in Niemi in order to protect it.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ping Lee whose telephone number is 571-272-7522. The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian C. Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Ping Lee  
Primary Examiner  
Art Unit 2615

pwl